APPENDIX A

OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT, Pub. L. No. 99-240, tit. II, 99 Stat. 1859 (1986)

TITLE II – OMNIBUS LOW-LEVEL RADIOACTIVE WASTE INTERSTATE COMPACT CONSENT ACT

SEC. 201. SHORT TITLE.

This Title may be cited as the "Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act".

Subtitle A – General Provisions

SEC. 211. CONGRESSIONAL FINDING.

The Congress hereby finds that each of the compacts set forth in subtitle B is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 212. CONDITIONS OF CONSENT TO COMPACTS.

The consent of the Congress to each of the compacts set forth in subtitle B –

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, as amended; and

(3) is granted only for so long as the regional commission, committee, or board established in the compact complies with all of the provisions of such Act.

SEC. 213. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to any compact set forth in subtitle B

after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.

APPENDIX B

SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT, Pub. L. No. 99-240, tit. II, § 223, 99 Stat. 1871 (1986)

SEC. 223. SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia to enter into the Southeast Interstate Low-Level Radioactive Waste Management Compact. Such compact is substantially as follows:

"SOUTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT COMPACT

"ARTICLE 1

"POLICY AND PURPOSE

"There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party States recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the State for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis.

The party states further recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573), has provided for an encouraged the development of low-level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

"It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort; provide sufficient facilities for the proper management of low-level radioactive waste generated in the region; promote the health and safety of the region; limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region; encourage the reduction of the amounts of low-level waste generated in the region; distribute the costs, benefits, and obligations of successful low-level radioactive waste management equitably among the party states; and ensure the ecological and economical management of low-level radioactive wastes.

"Implicit in the Congressional consent to this compact is the expectation by Congress and the party states that the appropriate federal agencies will actively assist the Compact Commission and the individual party states to this compact by:

> "1. expeditious enforcement of federal rules, regulations, and laws;
>
> "2. imposing sanctions against those found to be in violation of federal rules, regulations, and laws;

"3. timely inspection of their licensees to determine their capability to adhere to such rules, regulations, and laws;

"4. timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act, as amended.

"ARTICLE 2

"DEFINITIONS

"As used in this compact, unless the context clearly requires a different construction:

"1. 'Commission' or 'Compact Commission' means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

"2. 'Facility' means a parcel of land, together with the structure, equipment, and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

"3. 'Generator' means any person who produces or processes low-level radioactive waste in the course of, or as an incident to, manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage, or disposal of wastes with respect to such waste generated outside the region.

"4. 'High-level waste' means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted, and other high-level radioactive

waste as defined by the U.S. Nuclear Regulatory Commission.

"5. 'Host state' means any state in which a regional facility is situated or is being developed.

"6. 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e, (2) of the Atomic Energy Act of 1954 or as may be further defined by Federal law or regulation.

"7. 'Party state' means any state which is a signatory party to this compact.

"8. 'Person' means any individual, corporation, business enterprise, or other legal entity (either public or private).

"9. 'Region' means the collective party states.

"10. 'Regional facility' means (1) a facility as defined in this article which has been designated, authorized, accepted, or approved by the Commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1982.

"11. 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any other territorial possession of the United States.

"12. 'Transuranic wastes' means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the U.S. Nuclear Regulatory Commission or (2) any host state,

if it is an agreement state under Section 274 of the Atomic Energy Act of 1954.

"13. 'Waste management' means the storage, treatment, or disposal of waste.

"ARTICLE 3

"RIGHTS AND OBLIGATIONS

"The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit, or abridge those rights.

"(A) Subject to any license issued by the U.S. Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, treated, or disposed of, as applicable, at regional facilities and, additionally, shall have the right of access to facilities made available to the region through agreements entered into by the Commission pursuant to article 4(e)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

"(B) If no operating regional facility is located within the borders of a party state and the waste generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds vote of the Commission.

"(C) Each party state must establish the capability to regulate, license, and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post-closure observation and maintenance, and the extended institutional control of their regional facilities in accordance with the provisions of Article 5, Section (b).

"(D) Each party state must establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

"(E) Each party state must provide to the Commission on an annual basis any data and information necessary to the implementation of the Commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligation.

"(F) Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of waste requiring disposal.

"ARTICLE 4

"THE COMMISSION

"(A) There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission ('Commission' or 'Compact Commission'). The Commission shall consist of two voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the Commission in writing of the identity of its members and any alternates. An alter-

nate may act on behalf of the member only in the member's absence.

"(B) Each commission member is entitled to one vote. No action of the Commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

"(C) The Commission must elect from among its members a presiding officer. The Commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

"(D) The Commission must meet at least once a year and also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the Commission must be open to the public.

"(E) The Commission has the following duties and powers:

"1. To receive and approve the application of a non-party state to become an eligible state in accordance with the provisions of Article 7(b).

"2. To receive and approve the application of a non-party state to become an eligible state in accordance with the provisions of Article 7(c).

"3. To submit an annual report and other communications to the Governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the Commission.

"4. To develop and use procedures for determining, consistent with consideration for public health and safety, the type and number of regional facilities which are presently necessary and which are pro-

jected to be necessary to manage waste generated within the region.

"5. To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities.

"6. To develop and adopt, within one year after the Commission is constituted as provided in Article 7(d) procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the Commission shall identify a host state for the development of a second regional disposal facility within three years after the Commission is constituted as provided for in Article 7(d) and shall seek to ensure that such facility is licensed and ready to operate as soon as required but in no event later than 1991.

"In developing criteria, the Commission must consider the following; the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic, and ecological impacts on the air, land, and water resources of the party states.

"The Commission shall conduct such hearings, require such reports, studies, evidence, and testimony, and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility.

"7. In accordance with the procedures and criteria developed pursuant to Section (e)(6) of this Article, to designate, by a two-thirds vote, a host state for the establishment of a needed regional facility. The

Commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The Commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility.

"8. To require of and obtain from party states, eligible states seeking to become party states, and non-party states seeking to become eligible states, data and information necessary to the implementation of Commission responsibilities.

"9. Notwithstanding any other provision of this compact, to enter into agreements with any person, state, or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import requires a two-thirds majority vote of the Commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facility's capability to handle such wastes.

"10. To act or appear on behalf of any party state or states, only upon written request of both members of the Commission for such state or states as an intervenor or party in interest before Congress, state legislatures, any court of law, or any federal, state, or local agency, board, or commission which has jurisdiction over the management of wastes. The authority to act, intervene, or otherwise appear shall be exercised by the Commission, only after approval by a majority vote of the Commission.

"11. To revoke the membership of a party state in accordance with Article 7(f).

"F. The Commission may establish any advisory committees as it deems necessary for the purpose of advising the Commission on any matters pertaining to the management of low-level radioactive waste.

"G. The Commission may appoint or contract for and compensate such limited staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure irrespective of the civil service, personnel, or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the Commission. If the Commission has a headquarters it shall be in a party state.

"H. Funding for the Commission must be provided as follows:

"1. Each eligible state, upon becoming a party state, shall pay twenty-five thousand dollars to the Commission which shall be used for costs of the Commission's services.

"2. Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

"a. must be sufficient to cover the annual budget of the Commission;

"b. must represent the financial commitments of all party states to the Commission;

"c. must be paid to the Commission:

Provided, however, That each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection and that the remainder be sufficient only to cover the approved annual budgets of the Commission.

"3. The Commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states and must remit to the Commission funds resulting from collection of such special fees and surcharges within sixty days of their receipt.

"I. The Commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. The audit report shall be made a part of the annual report of the Commission required by Article 4(e)(3).

"J. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state, or the United States, or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount, and condition, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor, or lender shall be detailed in the annual report to the Commission.

"K. The Commission is not responsible for any costs associated with:

"(1) the creation of any facility,

"(2) the operation of any facility,

"(3) the stabilization and closure of any facility,

"(4) the post-closure observation and maintenance of any facility, or

"(5) the extended institutional control, after post-closure observation and maintenance of any facility.

"L. As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the Commission pursuant to the provisions of this compact. After January 1, 1986, the Commission may prohibit the exploration of waste from the region for the purposes of management.

"M. 1. The Commission herein established is a legal entity separate and distinct from the party states capable of acting in its own behalf and is liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not personally be liable for action taken by them in their official capacity.

"2. Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators and transporters of wastes and owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

"ARTICLE 5

"DEVELOPMENT AND OPERATION OF FACILITIES

"A. Any party state which becomes a host state in which a regional facility is operated shall not be designated by the Compact Commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the Commission, to have a regional facility operated within its borders.

"B. A host state desiring to close a regional facility located within its borders may do so only after notifying the Commission in writing of its intention to do so and the reasons therefore. Such notification shall be given to the Commission at least four years prior to the intended date of closure. Notwithstanding the four-year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of its use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that Congress has materially altered the conditions of this compact.

"C. Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

"D. No party state shall have any form of arbitrary prohibition on the treatment, storage, or disposal of low-level radioactive waste within its borders.

"ARTICLE 6

"OTHER LAWS AND REGULATIONS

"A. Nothing in this compact shall be construed to:

"(1) Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress.

"(2) Abrogate or limit the regulatory responsibility and authority of the U.S. Nuclear Regulatory Commission or of an agreement state under Section 274 of the Atomic Energy Act of 1954 in which a regional facility is located.

"(3) Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact.

"(4) Make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article 3, Article 4, and Article 5 and shall be subject to any action lawfully taken pursuant thereto.

"(5) Prohibit any storage or treatment of waste by the generator on its own premises.

"(6) Affect any judicial or administrative proceeding pending on the effective date of this compact.

"(7) Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions.

"(8) Affect the generation, treatment, storage, or disposal of waste generated by the atomic energy defense activities of the Secretary of the

United States Department of Energy or federal research and development activities as defined in Public Law 96-573.

"(9) Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

"B. No party shall pass any law or adopt any regulation which is inconsistent with this compact. To do so may jeopardize the membership status of the party state.

"C. Upon formation of the compact no law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

"D. Restrictions of waste management of regional facilities pursuant to Article 4 shall be enforceable as a matter of state law.

"ARTICLE 7

"ELIGIBLE PARTIES; WITHDRAWAL; REVOCATION; ENTRY INTO FORCE; TERMINATION

"A. This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

"B. Any state not expressly declared eligible to become a party state to this compact in Section (A) of this Article may petition the Commission, once constituted, to be declared eligible. The Commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to such provisions of this section. Upon satisfactorily meeting the conditions and upon the affirmative vote of two-thirds of the Commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the manner as those states declared eligible in Section (a) of this Article.

"C. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by Article 4(H)(1). The Commission is the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

"D. 1. The first three states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article 4(H)(1) shall immediately, upon the appointment of their Commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission; shall cause legislation to be introduced in Congress which grants the consent of Congress to this compact; and shall do those things necessary to organize the commission and implement the provisions of this compact.

"2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of Section (C) of this Article.

"3. The consent of Congress shall be required for the full implementation of this compact. The provisions of Article 5 Section (D) shall not become effective until the effective date of the import ban authorized by Article 4, Section (L) as approved by Congress. Congress may by law withdraw its consent only every five years.

"E. No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the Compact Commission for eligible state status or party state status.

"F. Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the Commission, including suspension of its rights under this compact and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds of the Commission members. Revocation of party state status may take effect on the date of the meeting at which the Commission approved the resolution imposing such sanction, but in no event shall revocation take effect later than ninety days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the Commission imposing the sanction.

"The Commission must, as soon as practicable after the meeting at which a resolution revoking status as

a party state is approved, provide written notice of the action, along with a copy of the resolution, to the Governors, the Presidents of the Senates, and the Speakers of the House of Representatives of the party states, as well as chairmen of the appropriate committees of Congress.

"G. Any party state may withdraw from the compact by enacting a law repealing the compact; provided, that if a regional facility is located within such a state, such regional facility shall remain available to the region for four years after the date the Commission receives notification in writing from the governor of such party state of the rescission of the compact. The Commission, upon receipt of the notification, shall as soon as practicable provide copies of such notification to the Governors, the Presidents of the Senates, and the Speakers of the House of Representatives of the party states as well as the chairmen of the appropriate committees of Congress.

"H. This compact may be terminated only by the affirmative action of Congress or by the rescission of all laws enacting the compact in each party state.

"ARTICLE 8

"PENALTIES

"A. Each party state, consistently with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provisions of this compact.

"B. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in the imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

"ARTICLE 9

"SEVERABILITY AND CONSTRUCTION

"The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any State participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.".